

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ALAN WALTER

Plaintiff,

-VS-

CSX TRANSPORTATION, INC.

Defendant.

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**NOTICE OF MOTION FOR  
SUMMARY JUDGMENT**

Docket No.: 1:19-cv-01583-WMS-JJM

**PLEASE TAKE NOTICE**, that upon the affirmation of Boyd L. Earl, Esq., affirmed this 14<sup>th</sup> day of September, 2021, together with attached exhibits, the affidavit of Plaintiff, Alan Walter, sworn to the 9<sup>th</sup> day of September, 2021, Plaintiff's Rule 56 Statement of Material Facts as to which there is no genuine issue to be tried, dated September 14, 2021, the accompanying Memorandum of Law, and all the pleadings and proceedings had herein, Plaintiff Alan Walter will move this Court as soon as counsel may be heard, before the Honorable William M. Skretny, United States District Judge for the Western District of New York, at the Robert H. Jackson United States Courthouse, 2 Niagara Square, Buffalo, New York 14202, for an Order pursuant to Federal Rules of Civil Procedure 56 granting Plaintiff summary judgment and entering judgment on the Complaint on the grounds that: (1) Defendant, CSX Transportation, Inc. is liable to Plaintiff for injuries sustained on July 21, 2017, pursuant to Defendant's violation of New York Labor Law § 240(1), or in the alternative Labor Law § 241(6).

**PLEASE TAKE FURTHER NOTICE**, that pursuant to W.D.N.Y. rules, that opposing papers, if any, must be filed 28 days from the filing of the Plaintiff's Motion for Summary Judgment, absent any court order modifying same.

**PLEASE TAKE FURTHER NOTICE**, that Plaintiff requests the opportunity to submit and file reply papers to Defendant's response to the herein motion.

**PLEASE TAKE FURTHER NOTICE**, that Plaintiff also requests the opportunity to argue the herein motion before the Court.

DATED: Buffalo, New York  
September 14, 2021

**LOTEMPIO P.C. LAW GROUP**

/s/BOYD L. EARL, ESQ.

Boyd L. Earl, Esq.

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